

**SB 33 and SB 510 STUDENT DATA PRIVACY BILLS THAT
DO NOT PROTECT PRIVACY BUT:**

- Give legal authority to online operators through computers, Chromebooks and other electronics used for school by K-12 students to
 - "AMASS PROFILES" on students that
 - contain biometrics, health records, political affiliations and religious beliefs and more
 - due to "but not limited to" language
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- Allows CEPI and MDE to give away PII , without parental permission, and only after the disclosure
 - Allows School Districts Charter and ISDs to refuse parental request of what PII was given to testing companies
 - Has very little protection for third-party disclosure of PII
 - Does not affirms parent's power to opt into any PII disclosure or profiles or even make parents away of the collection of PII data by online providers or sharing by MDE, CEPI, School districts, ISDs and charters.
 - No penalties for violating the law.

ANALYSIS OF SENATE BILL 33 and SB 510 OF 2016, as passed the MI Senate as of Nov. 4, 2015

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We oppose both SB 33 and 510. I would like to remind you that the Republican National Platform, the Michigan Republican Party and our president elect Trump all oppose Common Core and the extensive data collection required by Common Core. These bills are in direct opposition.

Here is a description of the bills after you account for the exceptions

SB 33 gives statutory rights for the conveyance of personally identifiable information (PII) by the state, schools district, charters and ISDs to non-profit corporations and vaguely defined educational purpose profit organizations. Parents may only learn of where their child's PII has been shared after the transfer. It provides schools the right to refuse to tell parents where and what PII was shared with testing companies. There is no mention of parents ability opt in or out of data collection and transfer.

SB 510 gives legal authority for an online operator to amass a profile about a student for furtherance of vague, unlimited k-12 school purposes. That profile may contain PII obtained from the school, student, parents, or student's activities and it may contain new data "created" from data on the operator's site. Data can include biometric, religious, political and health information. Data on the site may be deleted by the school or district. No provisions for parents to do so. This data may be given to the state or federal government or researchers if under the direction of a school, district, charter or the Michigan department of education, or to prevent the online operator's liability. No researcher should ever need PII. The bill also mentions the other private organizations the student PII may be shared.

SB510 allows operators to use student data for adaptive learning and personalized learning, both of which involve extensive evaluation of how this child learns, a "mind-mapping".

We believe a person's right to his personal information and any analysis, testing and reporting of his knowledge, attitudes, values and beliefs must be considered a property right. No personal identifiable information or evaluation of a person's psychological attributes should be performed or shared without his consent.

Data is never safe.

We know results obtained from testing will contain non academic attributes, because of the new testing for Social and Emotional Learning,(SEL)** The Aspen Institute recently received US Dept of Ed funding to create the SEL Commission. This increases the need for more safeguards for our children. It is especially concerning that the "covered information" definition in SB 510 lists religious information, political affiliations and biometrics. In fact the NAEP has already announced that SEL will be included in the 2017 test.

We cannot rely on FERPA, the federal pupil's rights act; it was gutted in 2011 when the administrative law sections were changed to literally allow any organization access to PII using the words "educational purposes", the same type of vague wording in these bills. Our state laws must be changed to grant parental control over the collection and disclosure of their child's data, something these two bills do not do.

We believe parents need to OPT IN to all data collection, direct or indirect, and be told before data is shared, where it is going. No one should be able to "amass a profile" about a child without parental permission. Schools must be required to make accommodations to parents who refuse to allow their child's PII to leave the school district in any format.

An individual should have the legal right to sue if his privacy is violated and government agencies and private organizations should have severe legal penalties for violating that privacy.

Unfortunately these bills do not protect any of these rights. In fact they do the opposite.

The concept, that state and local education agencies should not provide Personally Identifiable Information to outside parties is a step in the right direction. We applaud the sections that mandate CEPI (the state data collection department) and Michigan Department of Education to publicly disclose what information they collect on students, although they currently do that on their websites. But starting with Section 1D, this bill authorizes wholesale loss of student privacy.

A. In sections of SB33 a parent is allowed to find out where and what PII has been shared or disclosed only after the disclosure, and only after they request in writing, using the right questions, to each agency-an almost insurmountable barrier. Education entities should have to tell parents where they share PII before they share it, not after. We suggest transparency first.

B. Sections where SB 33 gives statutory exemption for education entities to NOT HAVE TO TELL PARENTS what PII they gave to testing companies. We see no reason testing companies need PII to grade a test and no reason parents should not be told what PII was shared with testing companies.

C. Even worse, SB 33 allows PII to be disclosed to "Educational Support Service" corporations, the profit and non-profit corporations, which operate websites, online services and apps, that collect data from online homework, tests, surveys, online applications or games played in school on low cost to the district electronics devices hosted by these organizations. Usually these operators provide low cost Chromebooks or tablets to school districts. These "educational purposes" organizations like Google and many other operators admit to currently collecting data on students. If SB 510 passes, the law will give internet operators legal permission or "cover" to "amass profiles" if they are contracted by the schools. Of course the profiles are limited to "K-12 purposes", but that is a vague definition (discussed below). This section nullifies any protections our students have now- the law being silent on the issue.

D. SB 510 defines "covered information" as personally identifiable information or material in any media or format that can be in the operator created profiles. This bill even gives permission for operators to

"create" data on the students. Definitions in the bill provide examples of data that can be gathered to include, "but not limited to" **health records, religious information, biometric information and political affiliations.**

E. In SB 510 the definition of "K-12 purposes" which qualifies who can create profiles on students includes the wording "but not limited to," instruction in.. the home" and "collaboration.. of parents".

F. Neither bill provide parent's the ability to correct and delete information collected about their child or the right of refusal to participate in programs operated by data-mining "educational purposes" corporations.

G. Neither bill provides penalties or fines for violation of these laws.

H. Neither bill requires industry based standards for security and allow data sharing to protect the operator from liability.

Creating a personal profile on children is dangerous as assumptions and decisions made based on that profile of academic and non cognitive attributes will be life altering decisions. Parents want to protect their children from that danger and having no knowledge of that collection handicaps their rights.

Under these bills student data will be held in at least 5 school or state agencies and possibly dozens or more "educational purpose" online sites. The chance of that PII data getting hacked is pretty high.

The big problem is that these online profiles created by nameless corporations containing personally identifiable and psychological data on a child can be quite harmful, today or later, especially if our society continues along its politically correct direction. Something harmless today could destroy a life or career tomorrow.

Stop Common Core in Michigan has lots of good data privacy bills at its access. Please vote NO.

****SEE AIR has policy briefs/ toolkits on SEL at their website <http://www.air.org/resource/are-you-ready-assess-social-and-emotional-development> AIR OFFERS SEL ASSESSMENTS <http://thefederalist.com/2016/10/19/schools-ditch-academics-for-emotional-manipulation/>**

